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Attorneys for Defendant TSLV, LLC dba TOWN SQUARE LAS VEGAS

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MATTHEW CIRRINICIONE, a minor, by and
through THOMAS CIRRINICIONE his natural
parent and guardian,

Plaintiff,

v.

TSLV, LLC, a Foreign Limited-Liability Company,
dba TOWN SQUARE LAS VEGAS; BARBARA
BUTLER ARTIST-BUILDER, INC., a California
corporation; GLOBAL PACIFIC
CONSTRUCTION, INC., a Nevada corporation;
DOES 1 through 10; and ROE BUSINESS
ENTITIES 1 through 10, inclusive,

Defendants.

TSLV LLC, a Foreign Limited-Liability Company,
dba TOWN SQUARE LAS VEGAS,

Third-Party Plaintiff.

vs

BARBARA BUTLER ARTIST BUILDER, INC., a
California Corporation; GLOBAL PACIFIC
CONSTRUCTION, INC., a Nevada corporation,
DOE INDIVIDUALS I-X; and ROE BUSINESS
ENTITIES I-X, inclusive

Third-Party Defendants.

Case No.: 2:16-cv-01030

**APPLICATION FOR ORDER FOR
SERVICE BY PUBLICATION ON GLOBAL
PACIFIC CONSTRUCTION, INC. AND
AFFIDAVIT OF APRIL R. BRADSHAW IN
SUPPORT THEREOF [F.R.C.P. 4(e)(1),
F.R.C.P. 4(h)(1)(A) AND N.R.C.P. 4(e)(1)(i)]**

Pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure and and Rule 4(e)(1)(i) of the Nevada Rules of Civil Procedure, Defendant and Third Party Plaintiff TSLV, LLC dba TOWN SQUARE LAS VEGAS respectfully requests that this court issue an order permitting service by publication on GLOBAL PACIFIC CONSTRUCTION, INC.

MEMORANDUM OF LAW

Rule 4(h)(1)(a) of the Federal Rules of Civil Procedure provides that a corporation may be served by following the procedure prescribed for service on an individual as set forth in F.R.C.P. 4(e)(1), which states, in pertinent part:

Unless federal law provides otherwise, an individual—other than a minor, an incompetent person, or a person whose waiver has been filed—may be served in a judicial district of the United States by:

(1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made. . . .

(Fed. Rules Civ. Proc. 4(e)(1).) [Emphasis added.]

Nevada Rule of Civil Procedure 4(e)(1)(i), which deals with service by publication states, in pertinent part:

In addition to methods of personal service, when the person on whom service is to be made resides out of the state, or has departed from the state, or cannot, after due diligence, be found within the state, or by concealment seeks to avoid the service of summons, and the fact shall appear, by affidavit, to the satisfaction of the court or judge thereof, and it shall appear, either by affidavit or by a verified complaint on file, that a cause of action exists against the defendant in respect to whom the service is to be made, and that the defendant is a necessary or proper party to the action, such court or judge may grant an order that the service be made by the publication of summons.

(Nev. Rules Civ. Proc. 4(e)(1)(i).)

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1 As set forth in the Affidavit of April R. Bradshaw and the Exhibits filed concurrently herewith,
2 TSLV, LLC dba TOWN SQUARE LAS VEGAS submits that service by publication is necessary and
3 appropriate and therefore requests that this court issue an Order authorizing such service by publication
4 on GLOBAL PACIFIC CONSTRUCTION, INC.

5 Dated: December 21st, 2016

LORBER, GREENFIELD & POLITO, LLP

6
7 By: April R. Bradshaw
8 Bruce W. Lorber, NV Bar No. 6043
9 Sean D. Allen, Esq. NV Bar No. 7579
10 April R. Bradshaw, Esq. NV Bar No. 11963
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14 Attorneys for Defendant TSLV, LLC dba TOWN
15 SQUARE LAS VEGAS
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AFFIDAVIT OF APRIL R. BRADSHAW IN SUPPORT OF APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION ON GLOBAL PACIFIC CONSTRUCTION, INC.

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

I, April R. Bradshaw, being duly sworn, deposes and says:

1. I am an attorney at law licensed to practice law in the State of Nevada and the United States District Court, District of Nevada. I am an associate in the law firm of Lorber, Greenfield & Polito, LLP, attorneys for Defendant and Third-Party Plaintiff TSLV, LLC dba TOWN SQUARE LAS VEGAS (hereinafter "TSLV, LLC") in the above captioned matter. I state the facts contained herein of my own personal knowledge except for those facts stated on information and belief, and as to those, I believe them to be true.

2. This case involves a claim for personal injuries arising out of an alleged fall from a playhouse in the Children's Park at Town Square Las Vegas on January 4, 2014. GLOBAL PACIFIC CONSTRUCTION, INC. (hereinafter "GLOBAL") was the general contractor responsible for installation of the playhouse from which Plaintiff MATTHEW CIRRINICIONE is alleged to have fallen. TSLV, LLC alleges that GLOBAL is responsible, in whole or in part, for the damages, if any, alleged by Plaintiff.

3. For the purposes of serving TSLV, LLC's Third-Party Complaint my office reviewed the the Nevada Secretary of State website which provides information for service of process for companies doing business in the State of Nevada. The Nevada Secretary of State website lists GLOBAL PACIFIC CONSTRUCTION, INC. as a "Permanently Revoked" entity. The Nevada Secretary of State website further identifies Stephen B. Donnelly as GLOBAL's Director, President, Secretary and Treasurer. The address listed with the Nevada Secretary of State for GLOBAL is 270 Spectrum Boulevard, Las Vegas 89101.

4. Attempts have been made to serve GLOBAL with the Summons and Third-Party Complaint, through its director, Stephen B. Donnelly, at each address listed with the Nevada Secretary of State by GLOBAL, and obtained by independent investigation. I am informed and believe and thereon allege that these efforts include the following:

APPLICATION FOR ORDER FOR SERVICE BY PUBLICATION ON GLOBAL PACIFIC CONSTRUCTION, INC. AND AFFIDAVIT OF APRIL R. BRADSHAW IN SUPPORT THEREOF [F.R.C.P. 4(e)(1), F.R.C.P. 4(h)(1)(A) AND N.R.C.P. 4(e)(1)(i)]

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(a) October 18, 2016 at 4:15 PM: Service attempted at 270 Spectrum Boulevard, Las Vegas Nevada. GLOBAL was not found. No property labeled as 270 Spectrum Boulevard was found. Process server spoke to the owner of the business located at 290 Spectrum Boulevard who stated that he had never heard of Stephen Donnelly. (See **EXHIBIT 1**: Affidavit of Attempts by Gregory Brown dated October 18, 2016, a true and correct copy of which is filed concurrently herewith.)

(b) October 20, 2016 at 8:05 PM: Service attempted at 2941 Cimini Court, Henderson, Nevada. Process server contacted Officer Frank at the guard gate and was advised that, although Stephen B. Donnelly owns the identified property, he does not live there. Officer Frank further advised that the property has been leased to tenants for three years. (See **EXHIBIT 2**: Affidavit of Attempts by Jill Ann Dudley dated October 20, 2016, a true and correct copy of which is filed concurrently herewith.)

5. No further information regarding the whereabouts of GLOBAL, or Mr. Donnelly has come to light. Personal service is not practicable for the reason that TSLV, LLC has no knowledge regarding the present place of business of GLOBAL, or the residence of Mr. Donnelly, despite TSLV, LLC'S diligent efforts to learn their whereabouts.

6. GLOBAL has not appeared voluntarily in this action.

7. TSLV, LLC requests that this court issue an order pursuant to F.R.C.P. 4(e)(1) and N.R.C.P. 4(e)(1)(i) for service by publication on GLOBAL PACIFIC CONSTRUCTION, INC.

Dated: December 21st, 2016

April R. Bradshaw
 April R. Bradshaw, Affiant

Sworn and Subscribed to before me
 This 21st day of December, 2016

Deborah Schuff
 Notary Public in and for County of Clark,
 State of Nevada.



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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MATTHEW CIRRINICIONE, a minor, by and
through THOMAS CIRRINICIONE his natural
parent and guardian,

Plaintiff,

v.

TSLV, LLC, a Foreign Limited-Liability Company,
dba TOWN SQUARE LAS VEGAS; BARBARA
BUTLER ARTIST-BUILDER, INC.. a California
corporation; GLOBAL PACIFIC
CONSTRUCTION, INC., a Nevada corporation;
DOES 1 through 10; and ROE BUSINESS
ENTITIES 1 through 10, inclusive,

Defendants.

TSLV LLC, a Foreign Limited-Liability Company,
dba TOWN SQUARE LAS VEGAS,

Third-Party Plaintiff.

vs

BARBARA BUTLER ARTIST BUILDER, INC., a
California Corporation; GLOBAL PACIFIC
CONSTRUCTION, INC., a Nevada corporation,
DOE INDIVIDUALS I-X; and ROE BUSINESS
ENTITIES I-X, inclusive

Third-Party Defendants.

Case No.: 2:16-cv-01030

**ORDER PURSUANT TO FRCP 4(e)(1) AND
NRCP 4(e)(1)(i) FOR SERVICE BY
PUBLICATION ON GLOBAL PACIFIC
CONSTRUCTION, INC.**


1 On due consideration of the Affidavit of April R. Bradshaw, sworn to on December 21, 2016,
2 and the Exhibits thereto, and it appearing to the court that this action for personal injury is properly
3 venued in this judicial district, and that it appearing that Third-Party Defendant GLOBAL PACIFIC
4 CONSTRUCTION COMPANY, INC. (hereinafter "GLOBAL") cannot be personally served, that the
5 present whereabouts of GLOBAL cannot be discovered by the exercise of reasonable diligence, and that
6 personal service on such Third-Party Defendant is therefore not practicable, and that service by
7 publication is proper under the circumstances, therefore:

8 IT IS ORDERED that GLOBAL PACIFIC CONSTRUCTION COMPANY, INC. appear to
9 plead to the Third Party Complaint of TSLV, LLC dba TOWN SQUARE LAS VEGAS on or before
10 March 13, 2017;

11 IT IS FURTHER ORDERED that that this order be published weekly in the Nevada Legal News,
12 a newspaper of general circulation published in the City of Las Vegas, Nevada, at least one (1) time per
13 week for at least four (4) weeks.

14 IT IS FURTHER ORDERED that if GLOBAL PACIFIC CONSTRUCTION COMPANY, INC.
15 does not appear or plead within the time specified in this Order, the court will proceed with the above-
16 entitled action as if GLOBAL PACIFIC CONSTRUCTION COMPANY, INC. had been served with
17 process within the State of Nevada.

18
19 Date: January 11, 2017


Magistrate Judge of the United States District Court
District of Nevada

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EXHIBIT 1

AFAS		PHONE NUMBER 702-945-2870		FOR COURT USE ONLY	
ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS)		REFERENCE NUMBER			
LORBER, GREENFIELD & POLITO		20300.3202.01			
1180 N TOWN CENTER DR., STE 100 LAS VEGAS, NEVADA 89144					
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY, AND POST OFFICE AND STREET ADDRESS					
District Court Clark County					
200 Lewis Avenue					
LAS VEGAS, NV 89155					
SHORT NAME OF CASE					
MATTHEW CIRRINICONE; ET AL v. TSLV, LLC; ET AL					
AFFIDAVIT OF ATTEMPTS		DATE/TIME		DEPT/DIV Clark County	
				CASE NUMBER 2:16-CV-01030	

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action;

I received the following documents:

SUMMONS, COMPLAINT

After due search, careful inquiry and diligent attempts at the following address(es), I have been unable to effect service of said process on:

Name: GLOBAL PACIFIC CONSTRUCTION, INC. C/O DIRECTOR STEPHEN B DONNELLY

Address(es): 2941 CIMINI CT
HENDERSON, NV 89052

Process is being returned without service for the following reason(s):

2016-10-20 20:05:00 Bad address PER OFFICER FRANK AT GUARD GATE, SUBJECT ONLY OWNS 2941 CIMINI CT BUT DOES NOT LIVE AT THIS ADDRESS. FRANK ALSO STATED SUBJECT HAS HAD TENANTS RESIDING AT THIS PROPERTY FOR THREE YEARS.

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 20 day of Oct, 2016.



Jill Ann Dudley R-088020

EXHIBIT 2

AFAS		PHONE NUMBER 702-945-2870		FOR COURT USE ONLY	
ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS)		REFERENCE NUMBER			
LORBER, GREENFIELD & POLITO		20300.3202.01			
1180 N TOWN CENTER DR., STE 100 LAS VEGAS, NEVADA 89144					
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY, AND POST OFFICE AND STREET ADDRESS District Court Clark County 200 Lewis Avenue LAS VEGAS, NV 89155					
SHORT NAME OF CASE MATTHEW CIRRINICONE; ET AL v. TSLV, LLC; ET AL					
AFFIDAVIT OF ATTEMPTS		DATE/TIME		DEPT/DIV Clark County	CASE NUMBER 2:16-CV-01030

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action;

I received the following documents:

SUMMONS, COMPLAINT

After due search, careful inquiry and diligent attempts at the following address(es), I have been unable to effect service of said process on:

Name: GLOBAL PACIFIC CONSTRUCTION, INC. C/O DIRECTOR STEPHEN B DONNELLY

Address(es): 270 SPECTRUM BLVD.
LAS VEGAS, NEVADA 89101

Process is being returned without service for the following reason(s):

2016-10-18 16:15:00 Bad address NO GLOBAL PACIFIC CONSTRUCTION, INC FOUND. NO PROPERTY LABELED 270 FOUND. SERVER WENT TO 290 SPECTRUM, SLETTEN COMPANIES AND SPOKE TO OWNER GREG GIFFORD. HE INFORMED SERVER HE NEVER HEARD OF STEPHEN DONNELLY.

Pursuant to NRS 53.045

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED this 18 day of Oct, 2016.



GREGORY BROWN R-013683